

1 SENATE BILL 1191

2 **48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

3 INTRODUCED BY

4 James G. Taylor

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10 AN ACT

11 RELATING TO TAXATION; AMENDING THE INVESTMENT CREDIT ACT TO
12 PROVIDE FOR A TAX CREDIT FOR EQUIPMENT USED IN THE FARMING OR
13 PROCESSING OF CHILE; EXCLUDING CHILE MANUFACTURING OPERATIONS
14 FROM A CERTAIN EMPLOYMENT REQUIREMENT.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 Section 1. Section 7-9A-3 NMSA 1978 (being Laws 1979,
18 Chapter 347, Section 3, as amended) is amended to read:

19 "7-9A-3. DEFINITIONS.--As used in the Investment Credit
20 Act:

21 A. "department" means the taxation and revenue
22 department, the secretary of taxation and revenue or any
23 employee of the department exercising authority lawfully
24 delegated to that employee by the secretary;

25 B. "equipment" means an essential machine,

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1 mechanism or tool, or a component or fitting thereof, used
2 directly and exclusively in a manufacturing operation and
3 subject to depreciation for purposes of the Internal Revenue
4 Code by the taxpayer carrying on the manufacturing operation.
5 "Equipment" does not include any vehicle that leaves the site
6 of the manufacturing operation for purposes of transporting
7 persons or property or any property for which the taxpayer
8 claims the credit pursuant to Section 7-9-79 NMSA 1978;

9 C. "manufacturing" means combining or processing
10 components or materials, including recyclable materials, to
11 increase their value for sale in the ordinary course of
12 business, including genetic testing and production and chile
13 farming, but not including:

14 (1) construction;
15 (2) farming, other than chile farming;
16 (3) power generation, except for electricity
17 generation at a facility other than one for which both location
18 approval and a certificate of convenience and necessity are
19 required prior to commencing construction or operation of the
20 facility, pursuant to the Public Utility Act [~~and the Electric~~
21 ~~Utility Industry Restructuring Act of 1999~~]; or

22 (4) processing natural resources, including
23 hydrocarbons;

24 D. "manufacturing operation" means a plant,
25 including a genetic testing and production facility, employing

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1 personnel to perform production tasks, in conjunction with
2 equipment not previously existing at the site, to produce
3 goods;

4 E. "recyclable materials" means materials that
5 would otherwise become solid waste if not recycled and that can
6 be collected, separated or processed and placed in use in the
7 form of raw materials or products; and

8 F. "taxpayer" means a person liable for payment of
9 any tax, a person responsible for withholding and payment over
10 or for collection and payment over of any tax or a person to
11 whom an assessment has been made, if the assessment
12 remains unabated or the amount thereof has not been paid."

13 Section 2. Section 7-9A-7.1 NMSA 1978 (being Laws 1983,
14 Chapter 206, Section 6, as amended) is amended to read:

15 "7-9A-7.1. EMPLOYMENT REQUIREMENTS.--

16 A. Except as provided in Subsection B of this
17 section, prior to July 1, 2011, to be eligible to claim a
18 credit pursuant to the Investment Credit Act, the taxpayer
19 shall employ the equivalent of one full-time employee who has
20 not been counted to meet this employment requirement for any
21 prior claim in addition to the number of full-time employees
22 employed on the day one year prior to the day on which the
23 taxpayer applies for the credit for every:

24 (1) five hundred thousand dollars
25 (\$500,000), or portion of that amount, in value of qualified

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1 equipment claimed by the taxpayer in a taxable year in the
2 same claim, up to a value of thirty million dollars
3 (\$30,000,000); and

4 (2) one million dollars (\$1,000,000), or
5 portion of that amount, in value of qualified equipment over
6 thirty million dollars (\$30,000,000) claimed by the taxpayer
7 in a taxable year in the same claim.

8 B. The employment requirements of Subsection A of
9 this section do not apply to manufacturing operations that
10 produce or provide initial roasting, drying, freezing,
11 canning, cooking, brining, color extracting or similar
12 processing of raw chile.

13 [~~B.~~] C. After June 30, 2011, for every one
14 hundred thousand dollars (\$100,000) in value of qualified
15 equipment claimed by a taxpayer in a taxable year, the
16 taxpayer shall employ the equivalent of one full-time
17 employee in addition to the number of full-time employees
18 employed on the day one year prior to the day on which the
19 taxpayer applies for credit.

20 [~~C.~~] D. The department may require evidence
21 showing compliance with this section. The department may
22 find that an additional employee meets the requirements of
23 this section, although employed earlier than one year prior
24 to the day on which the taxpayer applies for the credit, if
25 [~~he~~] the employee was only being trained prior to that date

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1 or [~~his~~] the employee's employment [~~is~~] was necessitated by
2 the use of the qualified equipment."

3 Section 3. TEMPORARY PROVISION--APPLICABILITY.--The
4 provisions of this act apply to qualified equipment purchased
5 or introduced into New Mexico on or after January 1, 2007.